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on 11-24-04

TOWNSEND and TOWNSEND and CREW LLP

By: [Signature]

AF EW
\$ PATENT
Attorney Docket No.: 020824-000910US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Dave Chandler, et al.

Application No.: 10/024,959

Filed: December 18, 2001

For: VOTING APPARATUS AND
METHOD

Examiner: Daniel St. Cyr

Art Unit: 2876

APPEAL BRIEF

Box: AF
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Appellant hereby submits this Appeal Brief pursuant to 37 C.F.R. § 41.31.
Appellant authorizes the Commissioner to deduct the requisite fee of \$330.00 pursuant
to 37 C.F.R. § 41.20 from deposit account number 20-1430 and any additional fees
associated with this Brief.

I. REAL PARTY IN INTEREST

The real party in interest of the subject patent application is the assignee
of the application, LeapFrog Enterprises, Inc.

II. RELATED APPEALS AND INTERFERENCES

None.

III. STATUS OF CLAIMS

Claims 21-30 are pending and are rejected. Claims 1-20 are canceled.

IV. STATUS OF AMENDMENTS

No Amendments After Final have been filed.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

As explained in the Background of the Invention section of the present application, punchcard type voting machines and DRE (direct recording electronic) voting machines are known. While conventional DRE voting systems address many of the problems associated with conventional punchcard voting machines, improvements could be made. For example, conventional DRE voting systems such as touch screen voting machines are purely electronic and are essentially paperless systems. In some jurisdictions, paper ballots are required by law so that conventional DRE systems may not be appropriate for these jurisdictions. Also, although the use of electronics in society increases every day, many voters may still feel more comfortable using paper as a voting medium. Paper is also easier to read than electronic display media. Consequently, although such DRE systems are currently being used in some jurisdictions, conventional DRE systems may not gain widespread acceptance. Thus, while purely electronic voting methods have advantages, they also have disadvantages.

Embodiments of the invention can combine the use of electronics and a print medium comprising, for example, paper, in the voting process. Referring to FIG. 1 in the present application, one embodiment of the invention is directed to a voting apparatus **10** comprising a print media receiving unit **40** including a surface **42** suitable for receiving a print medium **38** containing two or more choices. A stylus **12** is used by the voter to select a choice. An information storage medium **30** that is capable of storing the selection is also included in the voting apparatus **10**. An electronic position determining system in the voting apparatus is capable of determining a position of the voter's selection. See page 8, line 25 to page 11, line 24 of the specification for a description of the embodiment in FIG. 1. Some preferred components of an electronic position determining system are shown in FIG. 3.

In preferred embodiments, the print media receiving unit **40** includes a first antenna (see, e.g., **36(b)** in FIG. 2 and page 12, lines 1-7 of the specification) under the surface of the print media receiving unit **40**. A second antenna is in a stylus **12**. See, for example, lines 12-16 on page 12 of the specification. The first and second antennas can be used to record a voter's choice. Referring to FIG. 1, for example, a receiving antenna may be in the stylus **12**, while a signal transmitting antenna may be in the print medium receiving unit **40** and under the words "Candidate A" and/or under the corresponding perforated region. The signal-transmitting antenna may transmit a signal that is unique to the location of the words "Candidate A" upward and through the print medium **38**. A processor in the voting apparatus may determine that the voter has selected Candidate A based on the position of the stylus **12**. The selection is then recorded in the information storage medium **30** for subsequent tabulation.

This provides a number of advantages. Unlike a DRE type voting machine, a paper ballot can be used and the voter can be familiar with the voting ballot prior to voting. Also, in embodiments of the invention, the choice of the voter may be recorded on a paper ballot, in the electronics in the voting apparatus, as well as in a transferable information storage medium that may be separated from the main portion of the voting apparatus. Using embodiments of the invention, there are a number of different ways to record a vote, so that accurate vote counts can be obtained. Other advantages of embodiments of the invention are also provided below.

VI. GROUND FOR REJECTION TO BE REVIEWED ON APPEAL

Claims 21-30 are rejected under 35 U.S.C. § 103 over Comisar et al. (US Pat. No. 3,944,788) and Brigida, et al. (US Pat. No. 5,313,051).

VII. ARGUMENT

A. Rejection of claims 21-30 under 35 U.S.C. § 103 in view of Comisar et al. and Brigida et al.

1. Claims 21-23, 25-27, and 29

Claims 21-29 are rejected as obvious over Comisar et al. and Brigida et al. In the Office Action mailed on June 2, 2004, the Examiner alleges that Comisar et al. teaches all of the limitations in independent claim 21, except for a first antenna in the print media receiving unit and a second antenna in the stylus. However, the Examiner states that Brigida et al. discloses an antenna and an overlay assembly 704 having an antenna. This rejection is traversed.

a. *Brigida et al. is not analogous art*

Brigida et al. is not analogous art to the present invention, and therefore cannot be applied in a rejection under 35 U.S.C. §103. The Examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). MPEP 2141.01(a). Here, Brigida et al. is entitled "Paperless Parcel Tracking System." Brigida et al.'s invention is used to track of parcels and capture electronic signatures. Brigida et al. fails to mention "voting" or anything remotely related to voting. Accordingly, Brigida et al. is neither "analogous" to Appellants' invention nor Comisar et al. Accordingly, the obviousness rejection is improper for this reason alone.

b. *The alleged motivation to combine was improperly taken from Appellants' own specification and not the prior art as required by § 103*

Assuming, *arguendo*, that Brigida et al. can even be cited to establish obviousness, the obviousness rejection is also improper, since the motivation to combine Brigida, et al. with Comisar et al. was improperly taken from Appellants' own specification and not the prior art as required by § 103. According to the Examiner, it would have been obvious for one of ordinary skill in the art to combine Comisar et al. and Brigida et al. The Examiner states the following in support of the combination:

In view of Brigida et al's teachings, it would have been obvious for a person of skill in the art at the time the invention was made to modify the teachings of Comisar et al to include antenna elements in the overlay and in the stylus to facilitate communication between the stylus and the device. *Such modification would make the system more effective by providing wireless communication means and would facilitate voters' interaction with the device.* Therefore, it would have been an obvious extension as taught by Comisar et al. (emphasis added.)

The rejection is improper, since the alleged motivation is not in the prior art and was taken from Appellants' own specification. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1599 (Fed. Cir. 1988). MPEP § 2143.01. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and must not be based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). MPEP § 2412. Here, the alleged motivation that one would have modified Comisar et al.'s voting apparatus with the antennas in Brigida et al. to *"make the system more effective by providing wireless communication means and [to] facilitate voters' interaction with the device"* is not suggested by the prior art as required by § 103. As noted by the Examiner, Comisar et al. fails to teach or suggest the use of antennas at all, so Comisar et al. cannot suggest the alleged motivation for combining Comisar et al. and Brigida et al. Brigida et al. also does not provide the motivation to combine. Brigida et al. is entitled "paperless parcel tracking system" and relates to parcel delivery systems (see c. 1, l. 5-10), and not voting machines.

The *only* place of record that suggests using a wireless system to facilitate voter interaction is the present specification (e.g., page 8, lines 18-26). Since the motivation to combine Brigida et al. with Comisar et al. was taken from Appellants' own specification, and not the prior art as required by § 103, obviousness has not been established and the rejection should be withdrawn for this reason alone.

- c. *Contrary to the Examiner's allegation, the prior art does not suggest that Brigida et al.'s wireless communication means would be "more effective" than the mechanism disclosed in Comisar et al.*

Nothing in Brigida et al. indicates that the antennas described therein are "more effective" than the type of mechanism described in Comisar et al. Comisar et al. describes an electrical sensor matrix having a plurality of electrical contacts. The plurality of electrical contacts includes row contact strips and column contact strips. A stylus is inserted through perforations in the contact strips to make electrical contact with one row strip and one column strip, and to simultaneously punch a ballot card (see, c. 2, l. 50-60). The allegation that one would have been led to have modified Comisar et al.'s apparatus with antennas to "make the system more effective" is simply not supported by the prior art. It is well known that wireless communication mechanisms are generally less reliable than hardwired communication mechanisms, not more reliable. Accordingly, contrary to the Examiner's position in the Office Action, one would not have been led to modify Comisar et al.'s apparatus with antennas to "make the system more effective".

In response to this argument, the Examiner states the following at page 4 of the final Office Action:

it is generally known that wireless connections are more convenient and more users (sic) friendly, they do not require specific orientation nor contact for communicating information, which makes such communication more effective. Furthermore, close range wireless communications are very effective since there are no interferences that could distort signals.

Appellants note that these alleged reasons for combining Comisar et al. and Brigida et al. are also not taught or suggested by the prior art. The Examiner again improperly creates reasons to combine Comisar et al. and Brigida et al. without providing any evidence that one skilled in the art would have thought of those reasons at the time of the invention.

Furthermore, the allegation that one would have modified Comisar et al. with the antennas in Brigida et al., because "close range wireless communications are very effective since there are no interferences that could distort signals" is simply

incorrect. It is well known that wireless signals are subject to interference issues and the Examiner's allegation is simply unsupported by the prior art or any technical reference. As explained above, Comisar et al. uses a direct electrical connection between a stylus and conductors in a platform to record a vote. One viewing Comisar et al., would not have been led to substitute Brigida et al.'s wireless system for Comisar et al.'s direct electrical connection system to make Comisar et al.'s system "more reliable". Brigida et al. fails to suggest that a wireless communication system is "more reliable" than a direct connection system. In fact, one viewing Comisar et al. and Brigida et al. would have expected that Brigida et al.'s system would be "less" reliable than Comisar et al.'s system, since a signal passing between a stylus and a platform in Brigida et al.'s invention passes through a non-conducting medium such as air, whereas the signal passing between the stylus and platform in Comisar et al.'s system does not pass through a non-conducting medium.

- d. *Obviousness has not been established since Brigida et al. and Comisar et al. teach away from each other, and any combination thereof would have been based on improper hindsight in view of Appellants' disclosure*

Appellants also respectfully submit that Brigida et al. and Comisar et al. teach away from each other, and are therefore not combinable. It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983). MPEP § 2145. Here, Comisar et al. clearly discourages using totally electronic machines (see c. 1, l. 55 to c. 2, l. 15) and requires the use of a printed ballot or paper medium as a back up record of voter selections (c. 3, l. 30-40). In direct contrast, Brigida et al. is entitled "paperless parcel tracking system" and states that paper is "difficult and expensive to handle both in labor and storage costs" (c. 1, l. 15-20). While Brigida et al. discourages using paper, Comisar et al. requires the use of paper. Since Comisar et al. and Brigida et al. teach away from each other, obviousness has not been established.

Furthermore, given the completely contrary objectives in Comisar et al. and Brigida et al., one skilled in the art would not have combined these references unless they had had the benefit of viewing Appellants' disclosure first using improper

hindsight. "It is difficult but necessary that the decisionmaker forget what he or she has been taught . . . about the claimed invention and cast the mind back to the time the invention was made (often as here many years), to occupy the mind of one skilled in the art who is presented only with the references, and who is normally guided by the then-accepted wisdom in the art." *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983). Put another way, absent improper hindsight, one viewing "only" Comisar et al. and Brigida et al. would not have combined these references in the manner proposed by the Examiner, since (1) Comisar et al. and Brigida et al. are in completely different fields, and (2) Comisar et al. and Brigida et al. explicitly teach away from each other.

- e. *Embodiments of the invention provide a number of advantages over Comisar et al.'s voting apparatus.*

Comisar et al. is cited as being the closest prior art. However, embodiments of the invention have advantages over Comisar et al.'s voting apparatus. As noted above, in Comisar et al., a stylus is inserted through perforations in contact strips to make electrical contact with one row strip and one column strip, and to simultaneously punch a ballot card (see, c. 2, l. 50-60). An inner contact sleeve 77 and an outer contact sleeve 76 may be made from or coated with an electrical material. It is apparent that Comisar et al.'s voting apparatus has disadvantages that embodiments of the invention would address.

First, over time and with extended use, the inner contact sleeve 76 may wear down after repeated contact with the contact strip 53, or may wear down the contact strip 53 itself. Over time, the contact strip 53 and the inner contact sleeve 76 may no longer make good physical contact, and therefore may not make good electrical contact. Comisar et al.'s apparatus may therefore fail to consistently record votes after it has been used for some time. However, when using embodiments of the invention, there is no physical contact between the stylus and any electronics inside of the print media receiving unit. Accordingly, over time, the voting apparatus according to embodiments of the invention will be more reliable than Comisar et al.'s voting apparatus,

since the parts in embodiments of the invention do not wear like the parts in Comisar et al.'s voting apparatus.

Second, when using Comisar et al.'s voting apparatus, the voter must precisely place the stylus 34 into the appropriate hole to vote. However, when using embodiments of the invention, the voter may simply select the printed name of the candidate. Contrary to Comisar et al., the voter may make a more "direct" selection by selecting the candidate's name, instead of a perforation or hole next to a candidate's name. This can make the voting process easier and more intuitive for voters.

2. Claims 24 and 28

Dependent claim 24 additionally recites a "visual output device [that] is adapted to display the selection to the voter". Dependent claim 28 recites "an LCD display device". Claims 24 and 28 may stand or fall with respect to claim 24.

Appellants submit that the use of an LCD display device and/or a visual output device provides for additional advantages not contemplated by Comisar et al. or Brigida et al. A display allows the voter to visually verify the selection that the voter has made. This advantage is in addition to the above-noted advantages.

Dependent claims 24 and 28 depend from independent claim 21. They are allowable, since they depend from novel and unobvious independent claim 21.

Moreover, the limitations in dependent claims 24 and 28 are simply not taught or suggested by the prior art cited by the Examiner (i.e., Comisar et al. or Brigida et al.). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. MPEP § 2143.01. Here, the Examiner does not even address claim 24 in the Office Action mailed on June 2, 2004, let alone provide a prior art reference showing a "visual output device [that] is adapted to display the selection to the voter". Likewise, the Examiner fails to provide a secondary prior art reference for the limitation in claim 28. Accordingly, the rejections as to dependent claims 24 and 28 should be withdrawn for this reason alone.

With respect to dependent claim 28, the Examiner states that the use of an LCD screen is a "design choice". The Board of Patent Appeals and Interferences

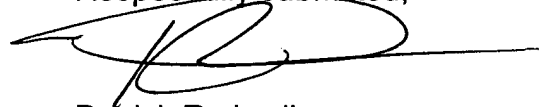
has stated that an allegation that a proposed modification of a primary reference is a "design choice" is not sufficient to establish obviousness. See, *Ex parte William R. Garrett*, 1986 Pat. App. LEXIS 8, (Bd. of Pat. App. and Inter. 1986) ("the examiner has not presented any line of reasoning as to why the artisan would have been motivated to so modify the Bassinger structure, and we know of none. The examiner's assertion at page 4 of the answer that the proposed modification would have been 'an obvious matter of engineering design choice well within the level of skill of one of ordinary skill in the art' is a conclusion rather than a reason"). A copy of this case is attached hereto.

Clearly, the Examiner cannot establish obviousness by merely alleging that limitations in the claims are a "design choice", *before* the Examiner has even established that the limitations are in the prior art. The "design choice" allegation is directly contrary to MPEP § 2142 which indicates that "[the] initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done.". The burden is not on the Appellants to provide evidence of unexpected results before the Examiner has established that each and every limitation in the claims is taught or suggested by the prior art.

CONCLUSION

In view of the foregoing remarks, Appellants respectfully request that the pending rejection be reversed.

Respectfully submitted,



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60358555 v1

I. **CLAIMS APPENDIX**

Claim 21. A voting apparatus comprising:

- (a) a print medium for an election, the print medium having two or more choices;
- (b) a print media receiving unit including a surface suitable for receiving the print medium;
- (c) a stylus coupled to the print media receiving unit;
- (d) an electronic position determining system capable of determining a position of a selection of the two or more choices on the print medium when the print medium is disposed on the surface, the electronic position determining system including a processor, a first antenna under the surface of the print media receiving unit and electrically coupled to the processor, and a second antenna in the stylus and coupled to the print media receiving unit via an electrical cable; and
- (e) an information storage medium capable of storing a selection of the voter.

Claim 22. The voting apparatus of claim 21 wherein the first antenna transmits a signal to the second antenna through the surface and the print medium during voting.

Claim 23. The voting apparatus of claim 21 further comprising a plurality of language selection buttons representing different languages.

Claim 24. The voting apparatus of claim 21 further comprising a visual output device coupled to the processor, wherein the visual output device is adapted to display the selection to the voter.

Claim 25. The voting apparatus of claim 21 wherein the information storage medium is a transferable information storage medium.

Claim 26. The voting apparatus of claim 21 further comprising an automatic page detection system for determining which page of the print medium is currently being displayed to the user.

Claim 27. The voting apparatus of claim 21 wherein the voting apparatus is capable of being automatically activated after the print media receiving unit receives the print medium.

Claim 28. The voting apparatus of claim 21 wherein the print medium comprises perforated regions that can be punched with the stylus.

Claim 29. The voting apparatus of claim 21 wherein the print media receiving unit further comprises a record vote button.

Claim 30. The voting apparatus of claim 21 further comprising an LCD display device operatively coupled to the processor.

II. **EVIDENCE APPENDIX**

1. Copy *Ex parte William R. Garrett*, 1986 Pat. App. LEXIS 8, (Bd. of Pat. App. and Inter. 1986).

60358555 v1

II. EVIDENCE APPENDIX

1. Copy *Ex parte William R. Garrett*, 1986 Pat. App. LEXIS 8, (Bd. of Pat. App. and Inter. 1986).

60358555 v1

1986 Pat. App. LEXIS 8 printed in FULL format.

Ex parte William R. Garrett

Appeal No. 580-81 from Art Unit 245.
Application for Patent filed July 29, 1981, Serial No.
287,769, which is a Continuation-in-Part of Serial No.
187,350, filed September 15, 1980.
Fixed-Contact Stabilizer.

Board of Patent Appeals and Interferences

1986 Pat. App. LEXIS 8

September 30, 1986, Decided

[*1]

Before Henon, Craig and Lindquist, Examiners-in-Chief.

COUNSEL:

Frank S. Vaden, III et al. for appellant.
Frank S. Vaden III
Vaden, Eickenroht, Thompson, Bednar & Jamison
One Riverway, Suite 2420
Houston, TX 77056

Primary Examiner - Stuart S. Levy

Examiner - D. Werner.

OPINIONBY: LINDQUIST

OPINION:

Lindquist, Examiner-in-Chief.

This appeal is from the final rejection of claims 1 through 4, 7 through 10, 21 through 25, 27, 31 through 33, 44 through 50 and 52 through 56. Of the remaining claims in this application, claims 5, 6, 28, 29, 30 and 51 stand withdrawn from consideration and claims 11 through 20, 26, and 34 through 43 have been allowed by the examiner.

The invention pertains to a drill string stabilizer which is apparent from a reading of illustrative claim 44, reproduced below.

44. Borehole apparatus comprising

a tubular body having a flow axis,

said body having a plurality of equiazimuthally spaced substantially parallel sides [sic, sided?] slots each extending in a direction having at least a paraxial component, and

blade means received in each slot making an interference fit with the sides of the slot.

The references cited by the examiner are as follows:

Dixon et al. (Dixon) 3,680,647 Aug. 1, 1972

Bassinger 4,106,823 Aug. 15, 1978

[*2]

All the claims at bar stand rejected under 35 U.S.C. 103 as obvious. As evidence of obviousness, the examiner cites Bassinger as to claims 1 through 4, 21 through 25, 27, 44 through 50 and 52 through 56 and adds Dixon as to claims 7 through 10 and 31 through 33.

Reference is made to the brief and the answer for the respective positions of the appellant and the examiner.

OPINION

We note in passing that "said uppermost blade" in claims 2, 9, 22 and 33 lacks an antecedent basis. As noted in claim 44 reproduced above, it appears to us that "sides" should be "sided" to conform with the interpretation given the claim by the appellant and the examiner. That is to say, the appellant and the examiner have construed claim 44 as calling for plural slots each having substantially parallel sides, and so will we. The locking means at the ends of the blade components of claim 53 do not appear to be capable of locking with adjacent components and the slot ends.

We have considered the rejection of the claims at bar under section 103 in light of the respective positions of the appellant and the examiner and conclude that it cannot be sustained.

All the claims at bar require that the [*3] pockets or slots in the stabilizer body have substantially parallel sides. As disclosed in the paragraphs bridging pages 15 and 16 and pages 20 and 21 of the specification, the appellant means by this language that the pocket or slot sides are at least within a few thousands of an inch of being precisely parallel.

The examiner's contention to the contrary at the bottom of page 4 and the top of page 5 of the answer notwithstanding, sidewalls 21 and 22 of the wear blade supporting grooves of Bassinger are not substantially parallel; each is inclined at an angle of 30 degrees with respect to the other.

The examiner goes on to say at page 5 of the answer that,

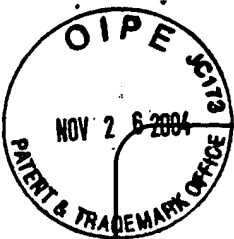
"Furthermore, wear blades having parallel sides are notoriously well known in the prior art and one of ordinary skill in the art would, through routine engineering design choice, elect to provide a borehole contacting apparatus with blades having parallel sides." Since this "prior art" has not been identified and is not before us, we will not comment upon it.

With respect to the proposed modification of the Bassinger structure by further coupling the wear blades to the stabilizer body with screws or bolts of the type disclosed [*4] by Dixon, the examiner has not presented any line of reasoning as to why the artisan would have been motivated to so modify the Bassinger structure, and we know of none. The examiner's assertion at page 4 of the answer that the proposed modification would have been "an obvious matter of engineering design choice well within the level of skill of one of ordinary

skill in the art" is a conclusion, rather than a reason.

Accordingly, the rejection of claims 1 through 4, 7 through 10, 21 through 25, 27, 31 through 33, 44 through 50 and 52 through 56 under 35 U.S.C. 103 is reversed.

REVERSED



PTO/SB/21 (09-04)

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

19

Application Number

10/024,959

Filing Date

December 18, 2001

First Named Inventor

Chandler, Dave

Art Unit

2876

Examiner Name

Daniel St. Cyr

Attorney Docket Number

020824-000910US

ENCLOSURES (Check all that apply)

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional ApplicationPower of Attorney, Revocation
Change of Correspondence Address

Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____



Landscape Table on CD



After Allowance Communication to TC

Appeal Communication to Board
of Appeals and InterferencesAppeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify
below):

Return Postcard, appendix

Certified Copy of Priority
Document(s)Reply to Missing Parts/ Incomplete
ApplicationReply to Missing Parts
under 37 CFR 1.52 or 1.53

Remarks

The Commissioner is authorized to charge any additional fees to Deposit
Account 20-1430.**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

Townsend and Townsend and Crew LLP

Signature

Printed name

Patrick R. Jewik

Date

11/24/04

Reg. No.

40,456

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

D. Bullock

Date

11/24/04



FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)
340

Complete if Known

Application Number	10/024,959
Filing Date	December 18, 2001
First Named Inventor	Chandler, Dave
Examiner Name	Daniel St. Cyr
Art Unit	2876
Attorney Docket No.	020824-000910US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit
Account
Number

20-1430

Deposit
Account
Name

Townsend and Townsend and Crew LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below		Fee Paid
	**	=		X		
Independent Claims		**	=		X	
Multiple Dependent				X		

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	340
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid SUBTOTAL (3)

(\$)340

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Patrick R. Jewik	Registration No. (Attorney/Agent)	40,456	Telephone	415-576-0200
Signature				Date	11/24/04

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.